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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/728,128	12/04/2003	Robert B. Nilsen	1571.2018-005	7639
21005 7590 10/07/2008 HAMILTON, BROOK, SMITH & REYNOLDS, P.C. 530 VIRGINIA ROAD P.O. BOX 9133 CONCORD, MA 01742-9133				
EXAMINER				
SEFER, AHMED N				
ART UNIT		PAPER NUMBER		
2893				
MAIL DATE		DELIVERY MODE		
10/07/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/728,128

**Applicant(s)**

NILSEN ET AL.

**Examiner**

AHMED SEFER

**Art Unit**

2893

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 July 2008.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-27, 32 and 33 is/are pending in the application.  
4a) Of the above claim(s) 5-8, 25, 32 and 33 is/are withdrawn from consideration.  
5) ☒ Claim(s) 1 is/are allowed.  
6) ☒ Claim(s) 2-4, 9-24, 26 and 27 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Response to Arguments***

1. The argument regarding Election/Restriction Requirement is persuasive. Therefore, the Election/Restriction Requirement mailed 12/4/2006 has been withdrawn. Furthermore, Applicant's arguments with respect the rejection of claim 14-23 under 35 U.S.C. 112, first paragraph and 35 U.S.C. 102(b) by Ono ("Ono") USPN 4,842,824 have been considered but are not persuasive. Applicant makes the following arguments:

A. Ono fails to teach a sub-wavelength moth-eye structure and that Ono teaches away from such structure. This is not persuasive because Ono clearly discloses the following:

An antireflection surface which comprises a very fine array of protuberances (fig. 1A) which are described as smaller in diameter than a wavelength of light (col. 1, lines 65-67).

A medium to which the antireflection surface is applied (fig. 1B).

B. Ono fails to teach a conductive light-blocking material. This is not persuasive because although Ono discloses metal 11 -- numeral 1 was erroneously identified as a metal layer-- absorbs laser beam, it does not mean that absolutely 'no light' will be blocked.

C. Embodiments of the present invention provide an intermittent conductive coating 72 or material disposed on either peaks or valleys of a subwavelength optical microstructure, such as a moth-eye structure or film 12 and that in the embodiments illustrated with respect to FIGS. 25-31, the intermittent material disposed on the subwavelength optical microstructure 12 blocks light from entering the microstructure 12. This is not persuasive because it is not supported by the original specification. Applicants are urged to refer to the original specification and provide the page number where the support is located.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 2-4, 14-23, 9-13, 23, 26 and 27 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The application as originally filed does not specifically support the claim limitation “blocking material/blocking surface/blocking filler.” The specification merely discloses that a conductive material (see also original claim 14) disposed in at least some of the valleys. The Examiner was unable to locate any discussion in the specification about “light blocking material” or “light-transmissive blocking surfacel”.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 14-23, as understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Ono (“Ono”) USPN 4,842,824

Ono discloses in figs. 1A-1C an optical polarizer film comprising a substrate 10 having a subwavelength moth-eye structure (cols. 2, lines 60-66 and the paragraph bridging cols. 2 and 3) including peaks and valleys and a conductive light-blocking material 11 disposed in at least some of the valleys providing polarization.

Re claims 15, 17 and 18, Ono discloses a conductive light-blocking material including a plurality of conductive particles or nanoparticles (**as recited in claim 17**) having a size (col. 1, lines 62-67) within the recited range (**as recited in claim 18**)

Re claims 19, 21 and 22, Ono discloses (col. 3, lines 1-48) a plurality of conductive particles including aluminum or filler (**as in claim 21**) or fibers (as recited in claim 22).

Note that the words filler, fiber conductive particles, nano-particles have been given their plain meaning as applicant has not provided a clear definition in the specification. In re Zletz, 893 F.2d 319, 321, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989); *Chef America, Inc. v. Lamb-Weston, Inc.*, 358 F.3d 1371, 1372, 69 USPQ2d 1857 (Fed. Cir. 2004).

Re claim 16, Ono discloses (col. 3, lines 1-48) a very fine (100 nm) metal covering a concave and convex; thus, the limitation “a substantially transparent coating” is met.

Re claim 20, the claim fails to further limit the polarizer structure but only limits its method of being positioned.

Re claim 23, Ono discloses (col. 3, lines 1-48) a very fine (100 nm) metal covering a concave and convex; thus, the limitation “a substantially transparent coating” is met.

***Allowable Subject Matter***

6. Claim 1 is allowed.

7. The following is a statement of reasons for the indication of allowable subject matter: None of the cited references disclose an intermittent surface covering at least a portion of a substrate as recited in independent claim 1.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to A. Sefer whose telephone number is (571)272-1921.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Davienne Monbleau can be reached on (571) 272-1945.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/A. Sefer/  
Primary Examiner  
Art Unit 2893